

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 875

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO JURIES; EXPANDING THE JURY POOL TO INCLUDE PERSONAL  
INCOME TAX FILERS; PROVIDING THAT THE SUPREME COURT DETERMINE  
LENGTH OF JURY TERMS; PROTECTING EMPLOYEES; UPDATING LANGUAGE  
ON RANDOM SELECTION OF JURORS TO REFLECT NEW TECHNOLOGY;  
RECONCILING MULTIPLE AMENDMENTS FROM LAWS 2003.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-8 NMSA 1978 (being Laws 1965,  
Chapter 248, Section 13, as amended by Laws 2003, Chapter 398,  
Section 5 and by Laws 2003, Chapter 439, Section 1) is amended  
to read:

"7-1-8. CONFIDENTIALITY OF RETURNS AND OTHER  
INFORMATION.--It is unlawful for an employee of the department  
or a former employee of the department to reveal to an  
individual other than another employee of the department

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underscoring material = new  
[bracketed material] = delete

1 information contained in the return of a taxpayer made pursuant  
2 to a law subject to administration and enforcement under the  
3 provisions of the Tax Administration Act or any other  
4 information about a taxpayer acquired as a result of [~~his~~] the  
5 employee's employment by the department and not available from  
6 public sources, except:

7 A. to an authorized representative of another  
8 state; provided that the receiving state has entered into a  
9 written agreement with the department to use the information  
10 for tax purposes only and that the receiving state has enacted  
11 a confidentiality statute similar to this section to which the  
12 representative is subject;

13 B. to a representative of the secretary of the  
14 treasury or the secretary's delegate pursuant to the terms of a  
15 reciprocal agreement entered into with the federal government  
16 for exchange of the information;

17 C. to the multistate tax commission or its  
18 authorized representative; provided that the information is  
19 used for tax purposes only and is disclosed by the multistate  
20 tax commission only to states that have met the requirements of  
21 Subsection A of this section;

22 D. to a district court, an appellate court or a  
23 federal court:

24 (1) in response to an order thereof in an  
25 action relating to taxes to which the state is a party and in

1 which the information sought is about a taxpayer who is party  
2 to the action and is material to the inquiry, in which case  
3 only that information may be required to be produced in court  
4 and admitted in evidence subject to court order protecting the  
5 confidentiality of the information and no more;

6 (2) in an action in which the department is  
7 attempting to enforce an act with which the department is  
8 charged or to collect a tax; or

9 (3) in any matter in which the department is a  
10 party and the taxpayer has put ~~[his]~~ the taxpayer's own  
11 liability for taxes at issue, in which case only that  
12 information regarding the taxpayer who is party to the action  
13 may be produced, but this shall not prevent the disclosure of  
14 department policy or interpretation of law arising from  
15 circumstances of a taxpayer who is not a party;

16 E. to the taxpayer or to the taxpayer's authorized  
17 representative; provided, however, that nothing in this  
18 subsection shall be construed to require any employee to  
19 testify in a judicial proceeding except as provided in  
20 Subsection D of this section;

21 F. information obtained through the administration  
22 of a law not subject to administration and enforcement under  
23 the provisions of the Tax Administration Act to the extent that  
24 release of that information is not otherwise prohibited by law;

25 G. in a manner, for statistical purposes, that the

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1 information revealed is not identified as applicable to an  
2 individual taxpayer;

3 H. with reference to information concerning the tax  
4 on tobacco imposed by Sections 7-12-1 through 7-12-13 and  
5 Sections 7-12-15 and 7-12-17 NMSA 1978 to a committee of the  
6 legislature for a valid legislative purpose or to the attorney  
7 general for purposes of Section 6-4-13 NMSA 1978 and the master  
8 settlement agreement defined in Section 6-4-12 NMSA 1978;

9 I. to a transferee, assignee, buyer or lessor of a  
10 liquor license, the amount and basis of an unpaid assessment of  
11 tax for which [~~his~~] the transferor, assignor, seller or lessee  
12 is liable;

13 J. to a purchaser of a business as provided in  
14 Sections 7-1-61 through 7-1-63 NMSA 1978, the amount and basis  
15 of an unpaid assessment of tax for which the purchaser's seller  
16 is liable;

17 K. to a municipality of this state upon its request  
18 for a period specified by that municipality within the twelve  
19 months preceding the request for the information by that  
20 municipality:

21 (1) the names, taxpayer identification numbers  
22 and addresses of registered gross receipts taxpayers reporting  
23 gross receipts for that municipality under the Gross Receipts  
24 and Compensating Tax Act or a local option gross receipts tax  
25 imposed by that municipality. The department may also release

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1 the information described in this paragraph quarterly or upon  
2 such other periodic basis as the secretary and the municipality  
3 may agree; and

4 (2) information indicating whether persons  
5 shown on a list of businesses located within that municipality  
6 furnished by the municipality have reported gross receipts to  
7 the department but have not reported gross receipts for that  
8 municipality under the Gross Receipts and Compensating Tax Act  
9 or a local option gross receipts tax imposed by that  
10 municipality.

11 The employees of municipalities receiving information as  
12 provided in this subsection shall be subject to the penalty  
13 contained in Section 7-1-76 NMSA 1978 if that information is  
14 revealed to individuals other than other employees of the  
15 municipality in question or the department;

16 L. to the commissioner of public lands for use in  
17 auditing that pertains to rentals, royalties, fees and other  
18 payments due the state under land sale, land lease or other  
19 land use contracts; the commissioner of public lands and  
20 employees of the commissioner are subject to the same  
21 provisions regarding confidentiality of information as  
22 employees of the department;

23 M. the department shall furnish, upon request by  
24 the child support enforcement division of the human services  
25 department, the last known address with date of all names

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1 certified to the department as being absent parents of children  
2 receiving public financial assistance. The child support  
3 enforcement division personnel shall use such information only  
4 for the purpose of enforcing the support liability of the  
5 absent parents and shall not use the information or disclose it  
6 for any other purpose; the child support enforcement division  
7 and its employees are subject to the provisions of this section  
8 with respect to any information acquired from the department;

9 N. the department shall furnish to the information  
10 systems division of the general services department, by  
11 electronic media, a database containing New Mexico personal  
12 income tax filers by county, which shall be updated quarterly.  
13 The database information shall be used only for the purpose of  
14 producing the random jury list for the selection of petit or  
15 grand jurors for the state courts pursuant to Section 38-5-3  
16 NMSA 1978. The database shall not contain any financial  
17 information. If any information in the database is revealed by  
18 an employee of the administrative office of the courts or the  
19 information systems division to individuals other than  
20 employees of the administrative office of the courts, the state  
21 courts, the information systems division or the department, the  
22 employee shall be subject to the penalty provisions of Section  
23 7-1-76 NMSA 1978;

24 ~~[N.]~~ O. with respect to the tax on gasoline imposed  
25 by the Gasoline Tax Act, the department shall make available

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1 for public inspection at monthly intervals a report covering  
2 the number of gallons of gasoline and ethanol blended fuels  
3 received and deducted, and the amount of tax paid by each  
4 person required to file a gasoline tax return or pay gasoline  
5 tax in the state of New Mexico;

6 ~~[O.]~~ P. the identity of a rack operator, importer,  
7 blender, supplier or distributor and the number of gallons  
8 reported on returns required under the Gasoline Tax Act,  
9 Special Fuels Supplier Tax Act or Alternative Fuel Tax Act to a  
10 rack operator, importer, blender, distributor or supplier, but  
11 only when it is necessary to enable the department to carry out  
12 its duties under the Gasoline Tax Act, the Special Fuels  
13 Supplier Tax Act or the Alternative Fuel Tax Act;

14 ~~[P.]~~ Q. the department shall release upon request  
15 only the names and addresses of all gasoline or special fuel  
16 distributors, wholesalers and retailers to the New Mexico  
17 department of agriculture, the employees of which are thereby  
18 subject to the penalty contained in Section 7-1-76 NMSA 1978 if  
19 that information is revealed to individuals other than  
20 employees of either the New Mexico department of agriculture or  
21 the department;

22 ~~[Q.]~~ R. the department shall answer all inquiries  
23 concerning whether a person is or is not a registered taxpayer  
24 for tax programs that require registration, but nothing in this  
25 subsection shall be construed to allow the department to answer

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1 inquiries concerning whether a person has filed a tax return;

2           ~~[R.]~~ S. upon request of a municipality or county of  
3 this state, the department shall permit officials or employees  
4 of the municipality or county to inspect the records of the  
5 department pertaining to an increase or decrease to a  
6 distribution or transfer made pursuant to Section 7-1-6.15 NMSA  
7 1978 for the purpose of reviewing the basis for the increase or  
8 decrease. The municipal or county officials or employees  
9 receiving information provided in this subsection shall not  
10 reveal that information to any person other than another  
11 employee of the municipality or the county, the department or a  
12 district court, an appellate court or a federal court in a  
13 proceeding relating to a disputed distribution and in which  
14 both the state and the municipality or county are parties.  
15 Information provided pursuant to provisions of this subsection  
16 that is revealed other than as provided in this subsection  
17 shall subject the person revealing the information to the  
18 penalties contained in Section 7-1-76 NMSA 1978;

19           ~~[S.]~~ T. to a county of this state that has in  
20 effect a local option gross receipts tax imposed by the county  
21 upon its request for a period specified by that county within  
22 the twelve months preceding the request for the information by  
23 that county:

24                   (1) the names, taxpayer identification numbers  
25 and addresses of registered gross receipts taxpayers reporting  
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1 gross receipts either for that county in the case of a local  
2 option gross receipts tax imposed on a countywide basis or only  
3 for the areas of that county outside of any incorporated  
4 municipalities within that county in the case of a county local  
5 option gross receipts tax imposed only in areas of the county  
6 outside of any incorporated municipalities. The department may  
7 also release the information described in this paragraph  
8 quarterly or upon such other periodic basis as the secretary  
9 and the county may agree;

10 (2) in the case of a local option gross  
11 receipts tax imposed by a county on a countywide basis,  
12 information indicating whether persons shown on a list of  
13 businesses located within the county furnished by the county  
14 have reported gross receipts to the department but have not  
15 reported gross receipts for that county under the Gross  
16 Receipts and Compensating Tax Act or a local option gross  
17 receipts tax imposed by that county on a countywide basis; and

18 (3) in the case of a local option gross  
19 receipts tax imposed by a county only on persons engaging in  
20 business in that area of the county outside of incorporated  
21 municipalities, information indicating whether persons on a  
22 list of businesses located in that county outside of the  
23 incorporated municipalities but within that county furnished by  
24 the county have reported gross receipts to the department but  
25 have not reported gross receipts for that county outside of the

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1 incorporated municipalities within that county under the Gross  
2 Receipts and Compensating Tax Act or a local option gross  
3 receipts tax imposed by the county only on persons engaging in  
4 business in that county outside of the incorporated  
5 municipalities.

6 The officers and employees of counties receiving  
7 information as provided in this subsection shall be subject to  
8 the penalty contained in Section 7-1-76 NMSA 1978 if the  
9 information is revealed to individuals other than other  
10 officers or employees of the county in question or the  
11 department;

12 [~~F.~~] U. to authorized representatives of an Indian  
13 nation, tribe or pueblo, the territory of which is located  
14 wholly or partially within New Mexico, pursuant to the terms of  
15 a reciprocal agreement entered into with the Indian nation,  
16 tribe or pueblo for the exchange of that information for tax  
17 purposes only; provided that the Indian nation, tribe or pueblo  
18 has enacted a confidentiality statute similar to this section;

19 [~~U.~~] V. information with respect to the taxes or  
20 tax acts administered pursuant to Subsection B of Section 7-1-2  
21 NMSA 1978, except that:

22 (1) information for or relating to a period  
23 prior to July 1, 1985 with respect to Sections 7-25-1 through  
24 7-25-9 and 7-26-1 through 7-26-8 NMSA 1978 may be released only  
25 to a committee of the legislature for a valid legislative

1 purpose;

2 (2) except as provided in Paragraph (3) of  
3 this subsection, contracts and other agreements between the  
4 taxpayer and other parties and the proprietary information  
5 contained in those contracts and agreements shall not be  
6 released without the consent of all parties to the contract or  
7 agreement; and

8 (3) audit workpapers and the proprietary  
9 information contained in the workpapers shall not be released  
10 except to:

11 (a) the minerals management service of  
12 the United States department of the interior, if production  
13 occurred on federal land;

14 (b) a person having a legal interest in  
15 the property that is subject to the audit;

16 (c) a purchaser of products severed from  
17 a property subject to the audit; or

18 (d) the authorized representative of any  
19 of the persons in Subparagraphs (a) through (c) of this  
20 paragraph. This paragraph does not prohibit the release of  
21 proprietary information contained in the workpapers that is  
22 also available from returns or from other sources not subject  
23 to the provisions of this section;

24 [~~V.~~] W. information with respect to the taxes,  
25 surtaxes, advance payments or tax acts administered pursuant to

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1 Subsection C of Section 7-1-2 NMSA 1978;

2           ~~[W.]~~ X. to the public regulation commission,  
3 information with respect to the Corporate Income and Franchise  
4 Tax Act required to enable the commission to carry out its  
5 duties;

6           ~~[X.]~~ Y. to the state racing commission, information  
7 with respect to the state, municipal and county gross receipts  
8 taxes paid by ~~[race tracks]~~ racetracks;

9           ~~[Y.]~~ Z. upon request of a corporation authorized to  
10 be formed under the Educational Assistance Act, the department  
11 shall furnish the last known address and the date of that  
12 address of every person certified to the department as an  
13 absent obligor of an educational debt due and owed to the  
14 corporation or that the corporation has lawfully contracted to  
15 collect. The corporation and its officers and employees shall  
16 use that information only to enforce the educational debt  
17 obligation of the absent obligors and shall not disclose that  
18 information or use it for any other purpose;

19           ~~[Z.]~~ AA. a decision and order made by a hearing  
20 officer pursuant to Section 7-1-24 NMSA 1978 with respect to a  
21 protest filed with the secretary on or after July 1, 1993;

22           ~~[AA.]~~ BB. information required by a provision of  
23 the Tax Administration Act to be made available to the public  
24 by the department;

25           ~~[BB.]~~ CC. upon request by the Bernalillo county

1 metropolitan court, the department shall furnish the last known  
2 address and the date of that address for every person the court  
3 certifies to the department as a person who owes fines, fees or  
4 costs to the court or who has failed to appear pursuant to a  
5 court order or a promise to appear;

6 ~~[GG.]~~ DD. upon request by a magistrate court, the  
7 department shall furnish the last known address and the date of  
8 that address for every person the court certifies to the  
9 department as a person who owes fines, fees or costs to the  
10 court or who has failed to appear pursuant to a court order or  
11 a promise to appear;

12 ~~[DD.]~~ EE. to the national tax administration  
13 agencies of Mexico and Canada, provided the agency receiving  
14 the information has entered into a written agreement with the  
15 department to use the information for tax purposes only and is  
16 subject to a confidentiality statute similar to this section;

17 ~~[EE.]~~ FF. to a district attorney, a state district  
18 court grand jury or federal grand jury for an investigation of  
19 or proceeding related to an alleged criminal violation of the  
20 tax laws;

21 ~~[FF.]~~ GG. to a third party subject to a subpoena or  
22 levy issued pursuant to the provisions of the Tax  
23 Administration Act, the identity of the taxpayer involved, the  
24 taxes or tax acts involved and the nature of the proceeding;

25 [and

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1           ~~GG.]~~ HH. to the gaming control board, tax returns  
2 of license applicants and their affiliates as defined in  
3 Subsection E of Section 60-2E-14 NMSA 1978; and

4           II. any written ruling on questions of evidence or  
5 procedure made by a hearing officer pursuant to Section 7-1-24  
6 NMSA 1978; provided that the name and identification number of  
7 the taxpayer requesting the ruling shall not be provided."

8           Section 2. A new section of Chapter 38, Article 5 NMSA  
9 1978 is enacted to read:

10           "[NEW MATERIAL] LEGISLATIVE DECLARATION.--It is the policy  
11 of this state that all qualified citizens have an obligation to  
12 serve on juries and to give truthful information concerning  
13 attitudes, opinions and feelings about topics relevant to the  
14 proceeding for which they are called to serve when summoned by  
15 the courts of this state."

16           Section 3. Section 38-5-3 NMSA 1978 (being Laws 1991,  
17 Chapter 71, Section 2) is amended to read:

18           "38-5-3. SOURCE FOR JUROR SELECTION.--

19           A. Each county clerk shall make available to the  
20 secretary of state a database of registered voters of ~~[his]~~ the  
21 clerk's county. The secretary of state shall preserve and make  
22 available to the information systems division of the general  
23 services department, by electronic media, a database of New  
24 Mexico registered voters, by county, which shall be updated  
25 monthly. The director of the motor vehicle division of the

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1 taxation and revenue department shall make available by  
 2 electronic media to the information systems division of the  
 3 general services department a database of driver's license  
 4 holders in each county, which shall be updated monthly. The  
 5 secretary of taxation and revenue shall make available to the  
 6 information systems division of the general services  
 7 department, by electronic media, a database of New Mexico  
 8 personal income tax filers by county, which shall be updated  
 9 quarterly.

10 B. The information systems division of the general  
 11 services department shall program the merger of the registered  
 12 voter, [~~and~~] driver's license and personal income tax filer  
 13 databases from each county to form a master jury database and  
 14 write a computer program so that a random selection of jurors  
 15 can be made. [~~No~~] A discrimination shall not be exercised  
 16 except for the elimination of persons who are not eligible for  
 17 jury service. The administrative office of the courts shall  
 18 provide specifications for the merging of the registered voter,  
 19 [~~and~~] driver's license and personal income tax filer databases.  
 20 The merged database information shall be the database that  
 21 produces the random jury list for the selection of petit or  
 22 grand jurors for the [~~district and magistrate~~] state courts.

23 C. The [~~district or magistrate~~] court shall, by  
 24 order, designate the number of potential jurors to be selected  
 25 and the date on which the jurors are to report for empaneling.

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1 Within fifteen days after receipt of a copy of the order, the  
2 administrative office of the courts shall provide the random  
3 jury list to the court. The information systems division of  
4 the general services department shall print the random jury  
5 list and jury summons mailer forms within ten days after  
6 receiving the request from the administrative office of the  
7 courts. Upon issuance of the order, the information systems  
8 division of the general services department shall draw from the  
9 most current registered voter, ~~and~~ driver's license and  
10 personal income tax filer databases to create the random jury  
11 list.

12 D. The information systems division of the general  
13 services department may transfer the master jury database to a  
14 ~~[district or magistrate]~~ court that has compatible equipment to  
15 accept such a transfer. The court accepting the master jury  
16 database shall transfer the information to a programmed  
17 computer used for the random selection of petit or grand  
18 jurors."

19 Section 4. Section 38-5-11 NMSA 1978 (being Laws 1969,  
20 Chapter 222, Section 11, as amended) is amended to read:

21 "38-5-11. QUALIFYING JURY PANELS.--

22 A. The court shall empanel jurors in a random  
23 manner. The ~~[district]~~ judge or ~~[his]~~ the judge's designee ~~[or~~  
24 ~~magistrate or his designee]~~ shall preside over the empaneling  
25 of a petit jury panel. The ~~[district]~~ judge or ~~[his]~~ the

1 judge's designee shall preside over the empaneling of the grand  
 2 jury panel. Jurors who appear for service shall be questioned  
 3 under oath as to their eligibility for jury service by the  
 4 [~~district~~] judge or [~~his~~] the judge's designee [~~or magistrate~~  
 5 ~~or his designee~~]. Claims of exemption, requests for excuse  
 6 from service or postponement of [~~services~~] service shall be  
 7 ruled upon by the [~~district~~] judge or [~~his~~] the judge's  
 8 designee. [~~or magistrate or his designee.~~

9 B. ~~A district judge or his designee or magistrate~~  
 10 ~~or his designee may excuse, exclude or postpone the services of~~  
 11 ~~any person called as a juror on the basis of:~~

12 (1) ~~physical or mental illness of the person~~  
 13 ~~or within his immediate family;~~

14 (2) ~~a written request from the person's~~  
 15 ~~employer for excuse on the ground that his services are~~  
 16 ~~essential; or~~

17 (3) ~~the person's prior business, professional~~  
 18 ~~or educational commitments which conflict with jury service,~~  
 19 ~~proven to the satisfaction of the district judge or his~~  
 20 ~~designee or magistrate or his designee.~~

21 G.] B. The [~~district~~] judge or [~~his~~] the judge's  
 22 designee [~~or magistrate or his designee~~] shall submit  
 23 questionnaires to prospective jurors to:

24 (1) obtain any information that will aid the  
 25 court in ruling on requests for exemption or excuse from

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1 service or postponement of service [~~or that will~~];

2           (2) aid the court [~~or~~] and the parties in voir  
3 dire examination of jurors or in determining a juror's  
4 qualifications to serve on a particular petit jury  
5 panel, trial jury or grand jury; or

6           (3) aid in the determination of challenges for  
7 cause and peremptory challenges.

8           C. The [~~district~~] judge or [~~his~~] the judge's  
9 designee [~~or magistrate or his designee~~] shall certify a  
10 numbered list of the jury panel members' names when qualified.  
11 The certified list of jurors and the questionnaires obtained  
12 from jurors shall be made available for inspection and copying  
13 by [~~any~~] a party to [~~any~~] a pending proceeding or their  
14 attorney or to any person having good cause for access to the  
15 list and the questionnaires."

16           Section 5. Section 38-5-12 NMSA 1978 (being Laws 1969,  
17 Chapter 222, Section 12, as amended) is amended to read:

18           "38-5-12. PETIT JURY PANELS--NUMBER TO BE QUALIFIED--  
19 PERIOD OF SERVICE--[EXEMPTION] TIME FOR SUMMONING.--

20           A. The [~~district~~] judge shall determine the number  
21 of jurors to be summoned for service, the date and time for the  
22 appearance of jurors for qualification, the number of jurors to  
23 be qualified to provide panels of jurors for trial service and  
24 the size of trial jury panels [~~and the length of time jurors~~  
25 ~~are retained for service~~]. Procedures such as the use of

1 alternate jury panels should be established where appropriate  
2 to lessen the burden of jury service on persons retained on  
3 petit jury panels. ~~[No person may be required to remain as a  
4 member of a petit jury panel for longer than six months  
5 following qualification as a juror in any year and in any  
6 judicial district having a population of more than three  
7 hundred thousand persons in the last federal decennial census,  
8 no person may be required to remain as a member of an actual  
9 jury panel for longer than six weeks in any calendar year  
10 unless the panel is engaged in a trial, nor shall he be  
11 required to remain as a member of a petit jury panel for longer  
12 than three months following qualification as a juror in any  
13 year. Persons who have served as members of a petit jury panel  
14 or a grand jury in either state or federal courts within the  
15 preceding thirty-six months shall be exempt from sitting or  
16 serving as jurors in any of the courts of this state when they,  
17 at their option, request to be excused from service.] Jurors  
18 may be drawn, summoned and qualified by the [district] judge at  
19 any time to supplement jury panels requiring replacement or  
20 augmentation. Petit jury panels may be qualified and may serve  
21 as the trial needs of the [district] court require without  
22 regard to court terms.~~

23 B. The supreme court shall establish, by rule, the  
24 appropriate length of jury terms. The court shall consider the  
25 number of trials held, the availability of jurors and the

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1 administrative and financial impact."

2 Section 6. Section 38-5-13 NMSA 1978 (being Laws 1969,  
3 Chapter 222, Section 13, as amended) is amended to read:

4 "38-5-13. [~~JURY LOT SLIP CONTAINER~~] DRAWING AND  
5 QUALIFYING TRIAL JURY.--[A.] The district court of each county  
6 shall [~~provide one jury lot slip container to hold the juror~~  
7 ~~lot slips for the selection of trial juries. The container~~  
8 ~~shall be constructed in a manner that allows the juror lot~~  
9 ~~slips to be securely locked within and shall have a transparent~~  
10 ~~window of sufficient size to permit the juror lot slips to be~~  
11 ~~clearly visible. The clerk of the district court of each~~  
12 ~~county is responsible for the safekeeping of the jury lot slip~~  
13 ~~container.~~

14 B. ~~The lot slips bearing an identification number~~  
15 ~~and] maintain a list of the names of the jurors duly empaneled~~  
16 ~~and present for the trial of a case [~~folded to conceal the name~~~~  
17 ~~and number, shall be placed in a trial jury wheel]. The judge~~  
18 ~~shall cause the [~~lot slips to be drawn singly from the~~~~  
19 ~~container] names to be randomly selected until sufficient names~~  
20 ~~have been drawn to provide the number of jurors required for~~  
21 ~~the trial. [~~The container shall be shaken or rotated to cause~~~~  
22 ~~the lot slips to be mixed.] The name and number of each juror~~  
23 ~~shall be announced [~~as it is called and recorded~~]. Twelve or~~  
24 ~~six jurors shall compose a petit jury in the district courts~~  
25 ~~for the trial of civil causes. Twelve jurors shall compose a~~

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1 petit jury in criminal and children's court cases. [A  
 2 ~~programmed computer may be used in lieu of a jury lot slip~~  
 3 ~~container to randomly select trial juries.~~] Magistrate and  
 4 metropolitan jury court selection shall be conducted in  
 5 accordance with supreme court rules."

6 Section 7. Section 38-5-18 NMSA 1978 (being Laws 1979,  
 7 Chapter 47, Section 1) is amended to read:

8 "38-5-18. EMPLOYER PROHIBITED FROM PENALIZING EMPLOYEE  
 9 FOR JURY SERVICE.--

10 A. An employer shall not deprive an employee of  
 11 [his] employment or threaten or otherwise coerce [him with  
 12 ~~respect thereto~~] the employee because the employee receives a  
 13 summons for jury service, responds [~~thereto~~] to the summons,  
 14 serves as a juror or attends court for prospective jury  
 15 service.

16 B. An employer shall not require or request an  
 17 employee to use annual, vacation or sick leave for time spent  
 18 responding to a summons for jury service, participating in the  
 19 jury selection process or serving on a jury. Nothing in this  
 20 subsection requires an employer to provide annual, vacation or  
 21 sick leave to employees who are not otherwise entitled to those  
 22 benefits under company policies."

23 Section 8. EFFECTIVE DATE.--The effective date of the  
 24 provisions of this act is July 1, 2005.